REMARKS

This Amendment and Response amends claims 1 and 6. With this Amendment and Response, claims 1-33 are pending in this application. No fees are believed due for these amendments; however, the Commissioner is hereby authorized to charge any deficiency or credit any overpayment to Deposit Account 11-0855.

I.   35 U.S.C. § 102 Claim Rejections

The Action rejects claims 1, 5, 6, and 10-12 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,467,990 to Montanari et al. The rejection is respectfully traversed and reconsideration and withdrawal thereof is requested.

This invention is directed to a method and a device for controlling the processing of slaughter products by routing slaughter products through processing operations in a way that will add the most value (typically by achieving efficiencies and economies of manufacture) while meeting the demands for certain types of slaughter products. This is achieved by recording and then drawing upon a number of different types of information in making decisions about how to process a particular slaughter product. The relevant information includes:

1. Data about at least one property of each slaughter product (i.e., product data);

2. Data about how a certain processing parameter with affect the property of a slaughter product (i.e., relationship data);

3. Data about the demand for a product with certain properties (i.e., demand data); and

4. Data about how other slaughter products have and are intended to be processed (i.e., processing data).

Armed with this information, decisions can be made about how best to process the available slaughter products in a way to meet demand while increasing the added value, such as by increasing the sales value of the products supplied to meet a particular demand and/or by reducing the production costs of those products.

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By way only of example, assume that the demand is for 20 chicken breasts and that the public will pay $1/pound (demand data). To add the most value, it is obviously beneficial to select the chickens that will likely yield the highest weight of breast meat. Thus, the chickens are weighed and those weighing the most can be processed to recover their breast meat. However, because processing of the chickens is occurring on a continual basis and only so much demand exists for chicken breasts, when a chicken is weighed it is beneficial to understand how chickens that have previously encountered particular processing stations ("prior chickens") have been processed or how those prior chickens are intended to be further processed. If the demand for 20 chicken breasts has already been satisfied, then obviously the current chicken should be processed into something else. However, if a demand still exists and processing is still underway on a prior chicken originally slated to be used for its breasts, this invention can use that information to perhaps alter the processing of that prior chicken and process the current chicken for its breast (in effect, supplant the prior chicken with the current chicken and thereby increase the value of the chicken breasts supplied to satisfy the demand). Thus, this invention is directed toward flexible processing where, by considering information about both the current product being processed as well as prior products, the most beneficial processing choices can be made to satisfy the demand.

Claims 1 and 6 have been amended to include consideration of the processing data relating to the processing of the slaughter products other than the product currently entering a processing station. Specifically, method claim 1 has been amended to recite recording processing data about the processing of the slaughter products and adjusting processing of a product based in part on that information. Claim 6 has similarly been amended to recite a device that includes processing recording means for recording data about the processing of the slaughter products and adjustment means that control processing of a product based in part on that processing data. Support for these amendments is found at least in paragraph 10 of the application: "In the method according to the invention, information is collected on an ongoing basis and the processing of a first slaughter product to form a second slaughter

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product is carried out in a flexible manner on the basis of information about the results of (a) prior processing(es) for one or more slaughter products or for the present first or second slaughter product, information concerning the results of the current processing(es) for one or more other slaughter products or for the present first or second slaughter product, and information concerning the results of (a) subsequent processing(es) for one or more other slaughter products."

Montanari et al. does not teach controlling the processing of a product based in part on data about the processing of other products. As has been explained in Applicants' Assingee's prior responses, Montanari et al. discloses a system for tracking a food product. Montenari et al. generally discloses generating a tracking number (col. 3, ll. 36), which identifies a particular food product at a certain stage in the production process. The tracking number is displayed on a label which is affixed to the product. When the product is divided in several portions, a respective tracking number is attached to each portion, in order to enable the tracking of the portion back to the product. Col. 3, ll. 44-46.

Montanari et al. discloses weighing the product and determining the number of sections into which the product will be divided. Col. 13, ll. 49-67. However, this arguable processing is entirely independent of the processing performed on other products. Rather, all information considered in processing the product is related to that product only. This is in direct contrast to the present invention in which data relating to the processing of other products is recorded and considered in deciding how to process a current product.

Because Montanari fails to teach or suggest controlling the processing of a product based in part on data relating to the processing of other products or a device for doing so, it fails to anticipate independent claims 1 and 6. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of Calif.*, 814 F.2d 628, 631 (Fed. Cir. 1987). Claims 1 and 6 are therefore allowable, as are claim 5 and claims 10-12 which

depend from allowable claims 1 and 6, respectively. Applicant's Assignee respectfully requests allowance of these claims.

II.   35 U.S.C. § 103 Rejections

The Action rejects claims 2, 3, 7 and 8 under 35 U.S.C. § 103(a) as being unpatentable over Montanari et al. in view of U.S. Patent No. 6,104,966 to Haagensen; claims 4 and 9 under 35 U.S.C. § 103(a) as being unpatentable over Montanari et al. in view of U.S. Patent No. 5,226,118 to Baker et al.; and claims 13-33 under 35 U.S.C. § 103(a) as being unpatentable over Montanari et al. in view of U.S. Patent No. 5,401,209 to Ripol et al. These claims are allowable at least by virtue of their ultimate dependence on allowable independent claims and thus Applicants' Assignee respectfully requests withdrawal of these rejections and allowance of these claims.

RESPONSE TO OFFICE ACTION
SERIAL NO.: 09/896,548
APPLICANT: van den NIEUWELAAR

PETITION FOR TWO-MONTH TIME EXTENSION

To the extent necessary, under 37 C.F.R. § 1.136(a) (1998) assignee hereby petitions that the period for responding be extended for two months, up to and including <u>August 17, 2004</u>. Enclosed is a check in the amount of $420.00 to cover the appropriate fee for this extension under 37 C.F.R. § 1.17. The Commissioner is hereby authorized to charge any deficiency or credit any overpayment to Deposit Account 11-0855.

CONCLUSION

The foregoing is submitted as a full and complete response to the Office Action mailed November 17, 2003 and to the Advisory Action mailed May 28, 2004. Applicants' Assignee submits that claims 1-33 are allowable for at least the reasons set forth above, and allowance of these claims is respectfully requested.

Please charge any additional fees or credit any overpayment to Deposit Order Account No. 11-0855.

Respectfully submitted,

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